



*Frank J. Otte*  
**Frank J. Otte**  
**United States Bankruptcy Judge**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

IN RE:	)	
CHRISTOPHER MICHAEL MARTEN	)	NO. 05-7807-FJO-7
	)	
Debtor	)	
	)	
JOHN J. PETR, TRUSTEE	)	
	)	
Plaintiff	)	
	)	Adversary Proceeding
vs.	)	No. 07-50321
MBNA AMERICA BANK, N.A.	)	
Defendant	)	
	)	

**ORDER**

This matter came before the Court upon the filing of the Motion for Relief from Judgment filed by MBNA America Bank, N.A. The Court held a hearing on this matter on April 29, 2008.

After reviewing the matter, the Court now ORDERS that the relief prayed for in the Motion should be granted. The Court finds that there was not proper service made upon the

Defendant. Plaintiff served the Defendant at the address listed on the Proof of Claim which was a P.O. Box. The listing of a P.O. Box for the purposes of receiving notices with regard to claims does not eliminate the need to properly serve a Defendant in a separate adversary proceeding in accordance with the Federal Rules of Bankruptcy Procedure (See Fed. R. Bankr. P. 7004(h)). The record does not reflect that service was made in accordance with said Rules.

If the Defendant is not properly served with process in accordance to the rules, the court does not acquire jurisdiction over the defendant. A judgment is void if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law. Robinson Eng'g Co. Pension Plan & Trust v. George, 223 F.3d 445, 448 (7<sup>th</sup> Cir. 2000). It is therefore,

ORDERED that the Motion for Relief from Judgment filed by MBNA America Bank, N.A. is GRANTED and the Default Judgment of September 10, 2007 is hereby set aside. The Defendant shall have 14 days from the date of this Order to file an answer or other responsive pleading.

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